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KEYSTONE

July 15, 1996

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, D.C. 20554

Re: IB Docket No. 96-111
Notice of Proposed Rulemaking
FCC 96-210

Dear Mr. Caton:

Enclosed for submission to the Federal Communications Commission are an original and four copies of Keystone Communications Corporation's comments in the above-captioned proceeding.

Please contact the undersigned counsel for Keystone if there are any questions.

Sincerely,

James T. Roche

James T. Roche

Enclosures

No. of Copies rec'd 0+4
List A B C D E

Keystone Communications Corporation
400 North Capitol Street NW, Suite 880 • Washington, DC 20001
(202)737-4440 • Fax: (202)737-1476

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	IB Docket No. 96-111
	)	
Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States	)	
	)	
and	)	
	)	
Amendment of Section 25.131 of the Commission's Rules and Regulations to Eliminate the Licensing Requirement for Certain International Receive-Only Earth Stations	)	CC Docket No. 93-23 RM-7931
	)	
and	)	
	)	
COMMUNICATIONS SATELLITE CORPORATION Request for Waiver of Section 25.131(j)(l) of the Commission's Rules As It Applies to Services Provided via the Intelsat K Satellite	)	File No. ISP-92-007

COMMENTS OF
KEYSTONE COMMUNICATIONS CORPORATION

Keystone Communications Corporation ("Keystone") hereby submits its Comments regarding the Commission's Notice of Proposed Rulemaking, FCC 96-210, released May 14, 1996, in the above-captioned proceeding ("NPRM"). Keystone generally supports the Commission's goals in this proceeding, but believes that a less burdensome regulatory structure is warranted. Keystone proposes a regulatory structure based on the Commission's current application process. In addition, Keystone urges the Commission to revise its

proposed rules to eliminate the licensing requirement for international receive-only earth stations.

Keystone Communications Corporation, headquartered in Salt Lake City, Utah, is one of the leading providers of domestic and international video and audio program distribution services, utilizing Ku-band and C-band transmit / receive and receive-only earth stations, and point-to-point microwave and fiber optic facilities. Keystone leases more than 17 36MHz equivalent international satellite transponders and 20 domestic satellite transponders in connection with earth stations in California, New Jersey, New York, Utah and the Washington, D.C. area. Keystone utilizes additional international and domestic satellite transponders on an as-needed basis.

I. The Commission Should Not Increase the Regulatory Burden of Earth Station Application Preparation and Submission

There are many earth station operators who do not have the staff or monetary resources to obtain and provide the information requested by the Commission in its proposals under consideration herein. The proposals effectively place the "licensing" requirement for foreign satellites on applicants for earth station licenses. Considering that U.S. satellite operators, with hundreds of millions of dollars in revenue, have sought the streamlining of satellite licensing procedures, it would not be equitable to shift licensing requirements to earth station operators. In addition, satellite service providers should be responsible for ensuring that non-U.S. licensed satellite operators comply with any power limitations associated with the 2 degree spacing environment. This burden should not fall to the earth station operator.

The Commission should be able to regulate access to non-U.S. licensed satellites without substantially increasing the burden on U.S. earth station licensees who desire to communicate with those satellites. Keystone provides customized transmission services to video and audio broadcast entities and does not have the resources to do the foreign trade analysis required under the Commission's proposed "ECO-SAT" test. U.S. Government agencies such as the International Trade Administration, National Telecommunications and Information Administration, or, the Commission itself, would be the best source of information regarding effective competitive opportunities.

A. FCC Form 493 and Current Exhibits Should Be Retained

Keystone believes that the Commission will be able to facilitate much greater access to non-U.S. licensed satellites, thus benefiting users within the United States, by retaining the current earth station application processing procedures. An applicant for an earth station license, amendment or modification would continue to file FCC Form 493. No additional exhibits should be required. Pursuant to Public Notice, DA 96-163, dated February 12, 1996, an applicant would identify the specific satellite system being accessed, the service being provided, the host country and any other route countries (destination points of the transmission). Additional non-U.S. licensed satellites or additional destination points would require the submission of applications for modification of earth station license.

The Commission should provide a current listing of approved non-U.S. licensed satellites, satellite provided services and host and route countries. This should be similar to the

Commission's Transborder Services Public Notice of a few years ago. The applicant could cite or attach the Commission's most recent listing without the need of further analysis or exhibits. The Commission's listing of approved satellite systems, services and countries would be prima facia evidence of reciprocity and lack of de jure restrictions.

Legal, technical and financial qualifications of the underlying non-U.S. licensed satellite system operator should not be a required showing of an earth station applicant. In-orbit satellite operators licensed by another country should be assumed to have met those qualifications. These satellites operators must have raised sufficient funds to construct, launch and operate their satellites, so that there should not be a financial qualification issue. ITU registration and INTELSAT consultation should be sufficient to show legal and technical qualification. If an in-orbit, non-U.S. licensed satellite operator has concluded technical consultations with INTELSAT and adjacent U.S. satellite operators, the Commission should assume that such foreign satellite operator meets the necessary technical qualification. With regard to ITU registration and INTELSAT consultation, the Commission should have that information. The applicant should not be required to furnish INTELSAT consultation documents which the Commission already has or can obtain from the State Department or COMSAT.

B. Petitions to Deny Should Be the Mechanism for Challenging Reciprocity and Other Questions of Fair Trade

A reciprocity analysis should not be required unless the Commission raises questions as

to the merits of the earth station application or another party submits a petition to deny. If a party challenges the application on reciprocity or qualification grounds, the applicant then would need to make the showings proposed in the NPRM. The Commission partially recognizes this approach regarding its concern with possible de facto restrictions. (See NPRM, para. 42). Keystone suggests that the Commission extend this approach to the whole process. If another party were having problems providing specific services to certain countries via U.S. licensed satellites, that party could petition to deny applications proposing to use non-U.S. licensed satellites to access those countries and would have the burden of showing any de facto restrictions.

Parties, having concerns as to the Commission's "approved list" or the satellite operator's qualifications, could petition to deny relevant applications. If there are no concerns, then petitions to deny would not be submitted. Because under the Commission's scenario every proposed use of a non-U.S. licensed satellite would require a new, updated reciprocity analysis (quite a burden for many applicants), the Commission should simplify the process by using the current 30-day public notice period for petitions to deny or other pleadings. The public notice document should list the non-U.S. licensed satellite, the specific services and the host and any other route countries.

II. The Commission Should De-regulate International Receive-Only Earth Stations

In the pending Notice of Proposed Rulemaking, FCC 93-89, released March 9, 1993, in

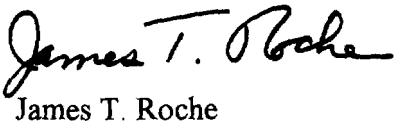
CC Docket No. 93-23, (RM-7931), the Commission proposed to deregulate all receive-only international earth stations, except INTELSAT earth stations which are operationally connected to the U.S. domestic common carrier network. The Commission believed that such change would open new markets and services for international communication transmissions and make international services, such as video programming, more feasible for U.S. consumers. In the instant proceeding, the Commission proposes to require licenses for the use of receive-only earth stations to receive signals from non-U.S. licensed FSS satellite systems, including INTELSAT (see proposed Rule §25.131 (j)). The reciprocity question does not arise when dealing with INTELSAT signals being received in the United States by receive-only earth stations. The Commission proposes in the NPRM to continue licensing international communications over the INTELSAT and INMARSAT systems without application of the reciprocity test (see NPRM, para. 70). That in itself supports excluding INTELSAT from the requirement of licenses for receive-only earth stations accessing non-U.S.-licensed satellites.

The Commission should once and for all exclude international receive-only earth stations from licensing regulation. Receive-only earth stations, whether domestic or international, are passive devices having no transmit capability, and therefore, they cannot possibly create interference with any satellites or other users of radio frequencies. Any licensing requirement for such facilities is unnecessary, unduly burdens applicants and the Commission, and delays the introduction of service. The public interest reasons which supported deregulation of INTELNET receive-only earth stations equally support deregulation of all other non-operationally connected international receive-only earth stations.

In early 1993, the FCC concluded that the time had come to remove the licensing requirement for international receive-only earth stations (see NPRM, FCC 93-89, supra). Keystone urges the Commission now to adopt the regulatory policy that all international receive-only earth stations not subject to any international treaty restrictions are free to operate without a license and are eligible for registration.

WHEREFORE, Keystone Communications Corporation requests consideration of its proposals in this proceeding.

Respectfully submitted,



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July 15, 1996

PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET N.W.
WASHINGTON, D.C. 20554

News Media information 202/418-0500 Recorded listing of releases and texts 202/418-2222

DA 96-16

February 12, 1996

SATELLITE EARTH STATION APPLICATIONS

REMINDER

In Amendment to the Commission's Regulatory Policies Governing Domestic Fixed Satellites and Separate International Satellite Systems (DISCO), FCC 96-14, released January 22, 1996, the Commission adopted a policy which removed regulatory barriers to permitting all U.S. licensed satellites to offer both domestic and international service. In doing so, we automatically modified all U.S. space station licenses to allow the facilities to provide domestic and international service and modified all earth station licenses to allow the facilities to communicate with all U.S. licensed satellites (ALSAT).

We remind applicants that seek to provide service using non-U.S. satellites that they must identify the specific satellite system being accessed and the destination point(s) of the transmission in Item 11 (Points of Communication) in FCC Form 493. Further, applicants seeking to modify existing licenses to communicate with additional non-U.S. satellites or additional destination points must file a modification application. Failure to provide complete and accurate information regarding points of communication will result in delay in processing the application.

For further information, contact Frank Peace, Satellite Engineering Branch, Satellite and Radiocommunication Division, International Bureau (202) 418-0730.

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